

2003 DRAFTING REQUEST**Bill**Received: **01/28/2004**Received By: **pkahler**Wanted: **Soon**

Identical to LRB:.

For: **Bonnie Ladwig (608) 266-9171**By/Representing: **Janine Hale**This file may be shown to any legislator: **NO**Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - health**Extra Copies: **CMH**Submit via email: **YES**Requester's email: **Rep.Ladwig@legis.state.wi.us**Carbon copy (CC:) to: **joyce.kiel@legis.state.wi.us****Pre Topic:**

No specific pre topic given

Topic:

Authorizing chamber of commerce self-funded groups for health benefits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 01/28/2004	wjackson 01/30/2004					State
/1			rschluet 01/30/2004		lemery 01/30/2004	mbarman 02/03/2004	

FE Sent For:

"/1" 2/4/04

<END>

Janine

Rush-Hearing

Feb 18th

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/?

pkahler

1 WJ 1/30

Handwritten signature and initials are written over the 'Typed' and 'Proofed' columns of the Drafting History table. The signature appears to be 'y' and '30'.

<END>

FE Sent For:

Kahler, Pam

From: Kahler, Pam
Sent: Wednesday, January 28, 2004 2:04 PM
To: Hale, Janine
Subject: RE: split of LRB 3588/2

Hi, Janine:

I'm glad you sent the e-mail because I was under the impression that you wanted just one bill that included both of those pieces. Now I know that you actually want two bills (in addition to LRB-3588/2), each with one of those pieces. Yes, I'm sure they can be out to you by next week.

Pam

-----Original Message-----

From: Hale, Janine
Sent: Wednesday, January 28, 2004 1:59 PM
To: Kahler, Pam
Subject: split of LRB 3588/2

Hi Pam,

This is in follow-up to our conversation late afternoon yesterday. Bonnie would like to stick with the current HSA language in LRB 3588/2.

So to reiterate, we want to draft the self-funded employer group piece and the HSA piece as two separate bills. Do you think they could be ready by next week?

Thanks,
Janine

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P.O. Box 8952
Madison, WI 53708
(608)266-9171
1-888-534-0063
janine.hale@legis.state.wi.us*

From RB-3588 File

3. Self-insured Proposal

233/P1

This plan sets up a pilot project to allow a chamber of commerce group to establish and administer a health care benefit arrangement for their employees on a self-funded basis. The employer group would decide the parameters of the health benefit arrangement including the benefits that will be provided and who is eligible for benefits. This pilot project would operate for three years and would work like any other self insured plan.

"Government shouldn't stand in the way of small businesses who want to continue to provide health insurance, but can't afford it," said Ladwig.

4. Medical Savings Account Proposal

This plan streamlines state statutes to encourage the use of Medical Savings Accounts (MSAs) in Wisconsin. The plan would update the internal revenue code in regards to MSAs and require that any future changes to federal MSA statutes would automatically be adopted into Wisconsin state statutes. Additionally it would require a state tax deduction from MSAs should the federal tax deduction be abolished.

Medical Savings Accounts (MSAs) allow for an employer to provide monthly contributions to individual employee accounts for the sole purpose of medical expenses. Employees may also contribute pre-tax dollars to the accounts. Employees are allowed to carry a balance in the account, use the account balance in other employment settings and apply their balance to supplement retirement or disability income. The employer would provide catastrophic insurance coverage for the employees in addition to the MSA contribution. MSA dollars can be used towards any medical expense of the employee's choice on a traditional "fee for service" basis. Employees choose their own physicians and make their own health care decisions.

"MSAs encourage health care consumers to manage their own care and places them in control of their own health care decisions," said Representative Weber. "MSAs encourage consumers to engage in wellness programs and preventative medicine, which results in a two-fold benefit: a healthier society and lower health care costs for all."

Representative Vukmir stressed that an added bonus to MSAs is that the patient pays the health care provider directly when non-catastrophic care is necessary, thus lowering administrative costs because there is no need for a third party insurer. "MSAs are a win-win for everyone," said Vukmir. "By taking control of their health care, consumers help keep the cost of health care down, which benefits everyone."

Reploding & Janine
Ellen Kowak
Mike (Montgomery Office)
Becky Weber

113 West
10-28

all are pilot

① SO203/2 ~~leave out at first~~
put in ~~the~~

use the coop as
guide for timeline

② by rule
use small employer def

3yr pilot

~~the~~ 2-SD

3yrs for each
part

all small employer insurers
must offer ~~the~~

(but employers wouldn't
have to purchase it)
(no geographic limitations)

attch
ing not

③ MSA - interest not taxed
employers contribute some \$

* MES part of 01-4956 (MSA part of)

State kicks in if fed no longer applies
call Rep Weber's office w/ guess of this

④ 3 chambers

require minimum "stop loss" insurance
% of

\$25,000 per insured

off
as of date, any employer who is newly
commit to 3 yrs
set or out +
must

stop loss ins covers anything
over that
amt

all employees would have to be covered

new business starting up could come in
but not any that exist on effective date

exposed to 3 chambers

First 3 to show OCT that required
date are ready are met

first 3 to that date

end it on Jan 1, 2005

~~22~~ required to be on stage - project
to intend to stay w/ project for 3 yrs
of pilot

Chamber deists on
penalty to be paid at outlet

~~Don't draft me school paper~~

Do a preliminary

11-12 Joyce Kiel
meeting with ↑

~~add~~ p3 sentence re. must accept all
who elect.

in (2)(b)1.

p4 (d) except for paying claims incurred
may not provide coverage for more than 3 yrs
except must pay claim incurred
during time cov provided
(incurred) ~~but not reported~~

p4
(3)(a) for employees use def of eligible employees
~~632.745~~ 632.745 (5)(a)
for dependents
↓

in (5) → group defines "dependent"

p4 (3)(b) in (5) → group lists reasons, if any, that
an employee may withdraw
(under (3)(b))

p4 (4) \$50,000 is benefit
(cost does not include any cost sharing
by employee)

(4) re stop-loss reinsurance: in an amount that
the employer group

group determines a maximum
stop loss to cover eligible claims
1

* require some benefits to be provided
1 benefit package that's offered to
every employer that participates

* but contributions paid by employers may
vary

now, some benefits but may require diff contributions
but not specify on what
based on assessment difference

must be offered to all eligible employees



~~individual employees employed~~

but don't ~~have to~~ mention cost-sharing

to have enough
want leg ~~info~~ info to

like coop → have each employer group
send a rep
an annual report
to leg → committee
& to OCI

what rep = report:

have performance study
audit bureau

& have ↑

~~report~~ report to audit committee?
& components for

Joyce will check

effect on ability of emp to provide health
report includes
no of participants
no of employ groups ~~and ~~costs~~~~
benefits provided effect
(description)
contribution made

employers participate
can be for employees

feasibility / advisability of extending
program
and break
recommendations?

p 8

add MSHA stuff -

send a copy to Joyce Kiel

Joyce Kiel 11-20

add

✓ exp + rev of employees + dependents

✓ prior health cov offered by employer

✓ cost of coverage (could be self-funded)
wt = 2 yrs before joining group
(employee + employee)

✓ offering
any coverage in addition to chamber
plan + cost of it
+ number of employees enrolled
in the coverage

✓ # of employees that have discontinued ~~participation~~
participation +
reason for leaving +
penalty imposed

Audit Bureau

access to records of employee group +
all relevant records

but not use or retain personally
identifying info

audit bureau do pay. audit - generic language

annual reports → one month after anniversary of
commencement

audit bureau do
exp. report for each employee group
due
earlier report 6 months after the ~~1st~~
2nd annual
report of each
emp group

Don Degruki 259-1850

used
6 months to do audit report

~~earlier report~~

Joyce Kiel

1-8

✓ changes plan is only one a participant can offer
amend p6-7 on other plans offered

✓ re adverse selection: minimum participation req.
employ group establish ↑
(employees)

✓ p3 line 20 → group established date new bus
must join group

✓ p4 → 5 yrs instead of 3 yrs
p4 line 20-25

an employer ~~who~~ who leaves terminates
early shall be responsible
for their share of group
claims incurred before
~~terminated~~ terminated participation

✓ ~~audit bureau study for malpractice (p7)~~
~~payroll audit~~
~~analyze participation rates~~
~~+ review rates set by OCT to ensure~~
~~that are at least 10% lower~~
~~w/6 mos after summary is submit their 2nd annual~~
~~report~~ see



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3588/2
PJK/2003/001/447
WLj

4149/1

2003 BILL

regenerate ↓

- 1 AN ACT *to create* subchapter XVI of chapter 71 [precedes 71.98], 146.92, 601.415
2 (8) and 635.25 of the statutes; **relating to:** self-funded employer groups for
3 providing health care coverage ~~basic benefits health care plan adopting~~
4 federal law as it relates to health savings accounts for state income and
5 franchise tax purposes and granting rule making authority.

Analysis by the Legislative Reference Bureau

Self-funded employer groups

This bill authorizes the formation of three employer groups each for the purpose of establishing and administering a health care benefit arrangement for providing, on a self-funded basis, health care benefits to the employees of the employers that participate in each employer group. Two or more employers that are members of the same chamber of commerce may form an employer group and other employers that are members of that same chamber of commerce may elect to participate in the employer group that is formed. An employer that participates must offer to cover all of its employees who have a normal work week of at least 30 hours, and their dependents, and, generally, may not discontinue participation before the employer group terminates.

Each employer group will determine all matters necessary for the operation of its health care benefit arrangement, which may operate for no longer than five years. An employer group may not provide more than \$50,000 in benefits to a covered

BILL

person per year on a self-funded basis and must obtain stop-loss coverage. Each health care benefit arrangement must provide the same benefits for all employers participating in the employer group, but the contributions paid by participating employers for self-funding purposes and for purchasing stop-loss coverage do not have to be the same. Both the employer groups and the health care benefit arrangements are exempt from all requirements under the insurance statutes. The employer groups may not be considered insurers, and the health care benefit arrangements may not be considered insurance contracts, for any purpose under the statutes.

Each employer group must annually submit to the Commissioner of Insurance (commissioner) and to the appropriate standing committees of the legislature a report that contains information about the employers participating, the covered employees and dependents, the benefits offered, and the claims paid. The Legislative Audit Bureau is required to conduct a performance audit of each employer group and its health care benefit arrangement and to prepare a report on each for distribution to the appropriate standing committees of the legislature.

Basic benefits plan

This bill requires the commissioner to design by rule a health benefit plan (plan) for the employees of small employers (generally, employers with 2 to 50 employees) and the dependents of the employees. The plan must provide basic benefits; may exclude or modify any health insurance mandates with which health insurers or health benefit plans are required to comply under current law; and must be designed so that the average premium for coverage under the plan is at least 10 percent lower than the average premium paid by small employers for coverage under other group health benefit plans.

From May 1, 2005, to April 30, 2010, every insurer that offers group health benefit plans to small employers must offer the plan designed by the commissioner. The insurers offering the plan must submit annual reports to the commissioner on the number of employers and employees and dependents with coverage under the plan, and the commissioner must compile the information in an annual report to the appropriate standing committees of the legislature. The Legislative Audit Bureau is required to conduct a performance audit of the plan, analyzing the participation rate and the premiums charged.

Health savings accounts

This bill adopts, for state income and franchise tax purposes, section 1201 of Public Law 108-173 as it relates to claiming a deduction for an amount that a person pays into a health savings account.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

1 **SECTION 1.** Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is
2 created to read.

CHAPTER 71**SUBCHAPTER XVI****INTERNAL REVENUE CODE UPDATE**

6 **71.98 Internal Revenue Code update.** The following federal laws, to the
7 extent that they apply to the Internal Revenue Code, apply to this chapter:

8 (1) **HEALTH SAVINGS ACCOUNTS.** Section 1201 of P.L. 108-173, to the extent that
9 it relates to health savings accounts.

10 **SECTION 2.** 146.92 of the statutes is created to read:

11 **146.92 Self-funded employer groups. (1) DEFINITIONS.** In this section:

12 (a) "Eligible employee" means an employee who works on a permanent basis
13 and has a normal work week of 30 or more hours. The term includes a sole proprietor,
14 a business owner, including the owner of a farm business, a partner of a partnership,
15 and a member of a limited liability company if the sole proprietor, business owner,
16 partner, or member is included as an employee under the health care benefit
17 arrangement under this section, but the term does not include an employee who
18 works on a temporary or substitute basis.

19 (b) "Eligible employers" means employers that are members of the same
20 chamber of commerce.

21 (2) **FORMATION, ELIGIBILITY, AND QUALIFICATION.** (a) No later than January 1,
22 2006, 2 or more eligible employers may form an employer group to establish and
23 administer an employee health care benefit arrangement for the joint provision of
24 health care benefits on a self-funded basis to their eligible employees, the eligible

BILL

1 employees of other eligible employers that elect to participate in the employer group,
2 and the dependents of those eligible employees.

3 (b) 1. The eligible employers forming the employer group shall specify a date
4 by which other eligible employers must elect to participate in the employer group or
5 be foreclosed from participating. All eligible employers that elect to participate by
6 the date specified and that meet any requirements established under sub. (5) (d)
7 shall be allowed to participate in the employer group.

8 2. Notwithstanding subd. 1., an employer that is a new business starting up
9 after the date specified in subd. 1., that becomes a member of the same chamber of
10 commerce after that date, that elects to participate by a later date that the employer
11 group establishes for the new business to make the election, and that meets any
12 requirements established under sub. (5) (d) shall be allowed to participate in the
13 employer group.

14 (c) No more than 3 employer groups may be formed under par. (a), and no more
15 than one employer group may be composed of employers that are members of any one
16 chamber of commerce. The first 3 employer groups that provide evidence to the
17 commissioner of insurance that they have formed and are in compliance with the
18 requirements under this section shall qualify to participate in the project under this
19 section. The commissioner of insurance shall provide notice in the Wisconsin
20 administrative register when 3 employer groups have qualified under this
21 paragraph. The notice shall list the groups and the dates on which each provided the
22 necessary evidence of compliance.

23 (d) 1. Except as provided in subd. 2., an employer group may operate and
24 provide benefits under its employee health care benefit arrangement established
25 under this section for no longer than 5 years.

BILL

1 2. After the employer group has ceased operating its employee health care
2 benefit arrangement, it shall continue to be responsible for paying eligible claims
3 that were incurred during the time in which the employee health care benefit
4 arrangement was operating.

5 (3) EMPLOYER REQUIREMENTS. (a) An employer that participates in an employer
6 group under this section shall be required to offer health care benefits under the
7 employee health care benefit arrangement to all of the employer's eligible employees
8 and all of the eligible employees' dependents, as defined by the employer group under
9 sub. (5) (b), and may not offer any other health care benefits to its eligible employees
10 or their dependents.

11 (b) An employer that elects to participate in an employer group under this
12 section shall be required to participate until the employer group terminates. To
13 ensure participation, an employer group may require all employers that elect to
14 participate to pay, at the commencement of participation, an amount that will be
15 forfeited to the employer group if the employer discontinues its participation before
16 the employer group terminates. In addition, any employer that discontinues
17 participation before the employer group terminates shall be responsible for the
18 employer's proportionate share of the cost of any eligible claims payable by the
19 employer group that were incurred before the employer discontinued participation.

20 (4) COVERAGE. (a) Each employer group shall pay no more than \$50,000 in
21 benefits on a self-funded basis in a calendar year for each person covered under its
22 employee health care benefit arrangement. Each employer group shall obtain excess
23 or stop-loss coverage through an insurer authorized to do business in this state in
24 an amount that is sufficient to pay eligible claims that exceed the amount that the
25 employer group will pay on a self-funded basis per person in a calendar year.

BILL**SECTION 2**

1 (b) An employer group shall provide the same, uniform health care benefits for
2 each employer that participates in that employer group.

3 (5) ADMINISTRATION. (a) Each employer group shall determine all matters
4 necessary for the administration and operation of its employee health care benefit
5 arrangement.

6 (b) Each employer group shall define who is a dependent for purposes of
7 coverage under its employee health care benefit arrangement.

8 (c) Each employer group shall determine the amounts that eligible employers
9 participating in the employer group must contribute for self-funding the employee
10 health care benefit arrangement, for paying administrative expenses, and for
11 purchasing excess or stop-loss coverage. The contribution amounts may vary from
12 employer to employer based on criteria developed by the employer group.

13 (d) An employer group may specify minimum participation requirements that
14 an eligible employer must satisfy for participation in the employer group.

15 (e) Notwithstanding sub. (3) (b), an employer group may specify circumstances
16 under which a participating employer may discontinue participation in the employer
17 group before the termination of the employer group without forfeiting all or a portion
18 of the amount paid by the employer under sub. (3) (b).

19 (6) REPORTS. (a) Annually, each employer group shall prepare and submit to
20 the commissioner of insurance and to the chief clerk of each house of the legislature
21 for distribution to the appropriate standing committees under s. 13.172 (3) a report,
22 which shall be due 2 months after the anniversary of the date on which the employer
23 group began operation, that includes all of the following information for the
24 reporting period:

25 1. The number of employers participating in the employer group.

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- 1 2. The number of employees that each participating employer has.
- 2 3. The number of employees and dependents covered under the employer
- 3 group's health care benefit arrangement and the age and sex of each covered
- 4 employee and dependent.
- 5 4. A brief description of the benefits that are provided under the health care
- 6 benefit arrangement.
- 7 5. The total contributions paid by participating employers, the contribution
- 8 amount used for self-funding the health care benefit arrangement, the contribution
- 9 amount used for paying administrative expenses, and the contribution amount used
- 10 for purchasing excess or stop-loss coverage.
- 11 6. The criteria upon which the employer contribution amounts were based.
- 12 7. The amount that has been paid out in benefits under the employee health
- 13 care benefit arrangement on a self-funded basis and under the excess or stop-loss
- 14 coverage.
- 15 8. The type of health care coverage, if any, provided by each participating
- 16 employer during the 2-year period before the employer's participation in the
- 17 employer group and the cost of that health care coverage, including both employer
- 18 and employee costs.
- 19 9. The number of employers that discontinued participation in the previous
- 20 year, if any, the reason for each discontinued participation, and the penalty imposed
- 21 on each.
- 22 (b) The legislative audit bureau shall conduct a performance evaluation audit
- 23 of each employer group formed under this section and of its employee health care
- 24 benefit arrangement. The bureau shall be allowed access to all records of each
- 25 employer group that may be relevant for this purpose but may not use or maintain

BILL

1 any personally identifying information contained in the records. Within 6 months
2 after an employer group submits its 2nd annual report under par. (a), the bureau
3 shall submit copies of its audit report for that employer group to the chief clerk of
4 each house of the legislature for distribution to the appropriate standing committees
5 under s. 13.172 (3).

6 **(7) EXEMPTION FROM INSURANCE REGULATION.** Notwithstanding 29 USC 1144 (b)
7 (6) (A), chs. 600 to 645 and any rules promulgated under chs. 600 to 645 do not apply
8 to an employer group, or to an employee health care benefit arrangement, under this
9 section. An employer group shall not be considered an insurer, and an employee
10 health care benefit arrangement shall not be considered an insurance contract, for
11 any purpose under the statutes.

12 **SECTION 3.** 601.415 (8) of the statutes is created to read:

13 601.415 (8) **EMPLOYER GROUP QUALIFICATION.** Notwithstanding s. 146.92 (7), the
14 commissioner shall perform the duties required under s. 146.92 (2) (c) related to the
15 qualification of employer groups for the project under s. 146.92.

16 **SECTION 4.** 635.25 of the statutes is created to read:

17 **635.25 Basic benefits plan.** (1) The commissioner shall by rule design a
18 group health benefit plan that small employer insurers shall offer to small employers
19 for providing health care coverage for their employees and the employees'
20 dependents. The plan shall provide basic benefits and may exclude or modify any
21 of the health insurance mandates, as defined in s. 601.423 (1), except to the extent
22 that any health insurance mandate is required under federal law. The plan shall be
23 designed so that the average premium for coverage under the plan is at least 10
24 percent lower than the average premium paid by small employers for coverage under
25 other group health benefit plans.

BILL

(2) Beginning on May 1, 2005, and ending on April 30, 2010, every small employer insurer shall be required to offer the plan, except that coverage may not be terminated before the end of the agreed term for any policy purchased on or before April 30, 2010, regardless of whether the coverage extends beyond April 30, 2010.

(3) (a) Annually, beginning on July 1, 2006, and ending on July 1, 2010, each small employer insurer shall submit to the commissioner a report that includes the following information for the 12-month period ending on the preceding April 30:

1. The number of small employers that have purchased coverage under the plan.

2. The number of employees that each small employer under subd. 1. has.

3. The number of employees and dependents that are covered under the plan.

4. The number of small employers that have purchased other health care coverage offered by the small employer insurer.

5. Any other information required by the commissioner by rule.

(b) Annually, beginning on September 1, 2006, and ending on September 1, 2010, the commissioner shall submit to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3) a report that compiles the information submitted to the commissioner under par. (a). The commissioner may by rule require small employer insurers to include in the reports information in addition to that required under par. (a) 1. to 4. that the commissioner determines would be useful for assessing the effectiveness of the plan.

(4) The legislative audit bureau shall conduct a performance evaluation audit of the basic benefits group health benefit plan under this section. The audit shall analyze the participation rates in the plan and the premiums charged for coverage under the plan for a comparison with premiums paid by small employers under other

BILL**SECTION 4**

1 group health benefit plans. The bureau shall be allowed access to all records of each
2 small employer insurer that may be relevant for this purpose but may not use or
3 maintain any personally identifying information contained in the records. By
4 January 1, 2008, the bureau shall submit copies of its audit report to the chief clerk
5 of each house of the legislature for distribution to the appropriate standing
6 committees under s. 13.172 (3).

SECTION 5. Nonstatutory provisions.

7
8 (1) RULES FOR BASIC BENEFITS PLAN. The commissioner of insurance shall submit
9 in proposed form the rules required under section 635.25 (1) of the statutes, as
10 created by this act, to the legislative council staff under section 227.15 (1) of the
11 statutes no later than October 1, 2004.

SECTION 6. Initial applicability.

12
13 (1) The treatment of subchapter XVI of chapter 71 of the statutes first applies
14 to taxable years beginning on January 1 of the year in which this subsection takes
15 effect, except that if this subsection takes effect after July 31 the treatment of
16 subchapter XVI of chapter 71 of the statutes first applies to taxable years beginning
17 on January 1 of the year following the year in which this subsection takes effect.

18 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4149/⁵¹dn
PJK:.....

This draft is the self-funded employer health benefit arrangement portion from LRB-3588/2.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4149/1dn
PJK:wlj:rs

January 30, 2004

This draft is the self-funded employer health benefit arrangement portion from LRB-3588/2.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Barman, Mike

From: Hale, Janine
Sent: Tuesday, February 03, 2004 3:30 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4149/1 Topic: Authorizing chamber of commerce self-funded groups for health benefits

It has been requested by <Hale, Janine> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-4149/1 Topic: Authorizing chamber of commerce self-funded groups for health benefits